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TRANSMITTAL FORM

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Application Number	10/033,317
Filing Date	December 28, 2001
First Named Inventor	S. Betz et al.
Art Unit	2611
Examiner Name	N. Vu
Total Number of Pages in This Submission: 8	Attorney Docket Number: PU010323

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☑ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please Identify below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Thomson Licensing Inc.
Signature	
Date	December 5, 2005

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Joel Fogelson		
Signature		Date	December 5, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Applicant	:	Steve Craig Betz et al.
Serial No.	:	10/033,317
Filed	:	December 28, 2001
For	:	Method for Displaying EPG Video-Clip Previews on Demand
Examiner	:	Vu, Ngoc K
Art Unit	:	2611
Customer #	:	24498

REPLY BRIEF UNDER 37 C.F.R. 41.41

May It Please The Honorable Board:

This is Appellants' Reply Brief on Appeal from the final rejection of claims 1-7, 9-17, 19 and 20 in response to the Examiner's Answer mailed on October 5, 2005. It is believed that no fees are owed in connection with this answer. If any fees are owed, please charge Deposit Account No. 07-0832.

Applicant is treating the Examiner's Answer in response to claims 3, 4, 12, 13, 19, and 20, as a grounds of new rejection pursuant to 37 C.F.R. 41.39, as the Examiner cites new prior art references to support her position. The contents of the Examiner's Answer do not indicate explicitly whether these new references do in fact form the basis of a new rejection or not. Because of this uncertainty, Applicant is responding to such grounds as allowed under 37 C.F.R. 41.39(b)(2).

I. REAL PARTY IN INTEREST

The real party in interest of Application Serial No. 10/033,317 is the Assignee of record:

Thomson Multimedia Licensing
46 Quai Alphonse Le Gallo
92648 Boulogne Cedex, France

II. RELATED APPEALS AND INTERFERENCES

There are currently, and have been, no related Appeals or Interferences regarding Application Serial No. 10/033,317 known to the undersigned attorney.

III. STATUS OF THE CLAIMS

Claims 1-7, 9-17, 19 and 20 are rejected and the rejection of claims 1-7, 9-17, 19 and 20 are appealed.

IV. STATUS OF AMENDMENTS

All amendments were entered and are reflected in the claims included in Appendix I.

V. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner has rejected claims 1 and 10 as being anticipated under 35 U.S.C. 103(a) by Schein et al. (US 6,075,575 A) in view of Bruette et al. (US 5,828,419 A).

The Examiner has rejected claims 19 and 20 as being anticipated under 35 U.S.C. 103(a) by Schein et al. in view of Bruette et al., and in further view of Lawler et al. (US 5,585,838 A).

The Examiner has rejected claims 2 and 11 as being unpatentable under 35 U.S.C. 103(a) over Schein et al. in view of Bruette et al., in further view of Rowe et al. (US 5,812,123 A).

The Examiner has rejected claims 3, 4, 12, and 13 as being unpatentable under 35 U.S.C. 103(a) over Schein et al. in view of Burette et al., in further view of Rowe et al., and in further view of Billock et al. (US 5,619,249 A) and Namias (US Publication 2002/0112005).

The Examiner has rejected claims 6, 7, 9 and 15-17 as being unpatentable under 35 U.S.C. 103(a) over Schein et al. in view of Bruette and Rowe and further in view of Reynolds (US 6,563,515).

VI. ARGUMENT

Rejection of Claims 1, 10, 19 and 20 under 35 U.S.C. 103(a)

I. In response to the Examiner's newly cited art in regards to claims 19 and 20, Applicant maintains the patentability of such claims rises or falls in regards to claims 1 and 10. Applicant notes that in the Examiner's answer, there is no discussion made by the Examiner in terms of the motivation to combine Schein et al. and Bruette et al. with Lawler et al. (a new reference cited to discuss the issue of official notice). Regardless, the Examiner's combination in respect to claims 19 and 20 will not be discussed because such claims rise and fall with the patentability of claims 1 and 10.

II. In the Examiner's response to the Applicant's arguments regarding the patentability of Claims 1 and 10, the Examiner cites to *In re Keller,* 642 F. 2d 413, 208 USPQ 871 (CCPA 1981) and *In re Merck & Co.,* 800 F. 2d 1091 231 USPQ 375 (Fed. Cir. 1986) as supporting the proposition that the Applicant argued Schein et al. and Burette et al. separately and is not a proper argument when considering non-obviousness. Applicant notes that the Appeal Brief does in fact discuss the combination of Bruette et al. and Schein et al. on page 8, second paragraph to page 10, first paragraph, and in other places.

III. On page 9, paragraph three of the Examiner's response, the Examiner acknowledges that although the Burette et al. reference, "does not disclose every permutation of a program or various types of programs that are being restricted. However, Bruette et al. discloses deleting entry or channel

(and all information regard the program) from the program guide (see col. 1, lines 26-29). The examiner posits that removing the channel or program from the program guide restricts all other program related data including the preview data. It is reasonable to assume that all data for this channel or program is inhibited."

Applicant asserts that that the above teaching of "removing the channel or program from the program guide" does not disclose or suggest the claimed element of "when the launching of the video clip preview is inhibited if a program corresponding to the video clip preview and corresponding to the highlighted program titled cell is restricted according to a user profile based parental control" as in Claim 1. That is, the Examiner's suggestion from Burette et al., if applied to Schein et al., would end up eliminating from a program guide any program guide channel or program guide that exceeds a parental control. If this were the case, the claimed invention of Claim 1 could not be performed by the Examiner's cited combination because it would be impossible to select a "highlighted program titled cell" with an unacceptable rating, as such a cell would be eliminated from a program guide if Burette et al. were applied in the way suggested by the Examiner with Schein et al.

In view of the arguments made above and made previously in the Appeal Brief, Applicant asserts that Claims 1, 10, 19, and 20 are patentable over the cited art of record.

Rejection of Claims 2-5 and 11-14 under 35 U.S.C. 103(a)

I. In response to the Examiner's newly cited art in regards to claims 3, 4, 12, and 13, Applicant maintains that the patentability of such claims rises or falls in regards to claims 1 and 10. Applicants notes that in the Examiner's answer, there is no discussion made by the Examiner in terms of the motivation to combine Schein et al., Bruette et al., Rowe et al., with Billock et al. and Namias (new references cited in regards to official notice concerns) Regardless, the Examiner's combination in respect to claims 3, 4, 12, and 13 will not be discussed because such claims rise and fall with the patentability of claims 1 and 10.

In view of the arguments made above and made previously in the Appeal Brief, Applicant asserts that Claims 2-5 and 11-4 are patentable over the cited art of record.

Rejection of Claims 6, 7, 9 and 15-17 under 35 U.S.C. 103(a)

Applicant has no further remarks for these claims in addition to what was already cited in the Appeal Brief. In view of the arguments made above and made previously in the Appeal Brief, Applicant asserts that Claims 6, 7, 9, 15-17 are patentable over the cited art of record.

VII. CONCLUSION

Accordingly it is respectfully submitted that Claims 1-7, 9-17, 19 and 20 are patentable in view of the cited art of record, when taken alone or in combination, and that the rejections of claims 1-7, 9-17, 19 and 20 are satisfied and should be withdrawn.

Respectfully submitted,
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